

UNITED STATES DISTRICT COURT
Southern District of Indiana
Office of the Clerk

Room 105
U.S. Courthouse
Indianapolis, Indiana 46204

Laura A. Briggs, Clerk
(Voice) 317-229-3700
(FAX) 317-229-3704

December 12, 2005

NOTICE

**TO: THE PUBLIC AND MEMBERS OF THE PRACTICING BAR FOR THE
SOUTHERN DISTRICT OF INDIANA**

Whereas the Court has considered the recommendation of the Local Rules
Advisory Committee that certain Local Rules be amended; and

Whereas the Clerk issued a Public Notice on November 10, 2005, regarding the
recommended amendments; and

Whereas the Court has considered such proposed amendments and the
comments received, and has determined that the amendments should be adopted,

IT IS NOW ORDERED pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal
Rules of Civil Procedure that the following amendments to the Local Rules of this Court
are adopted. Unless otherwise indicated, as seen in this Notice **redline** text is added and **struck**
text is deleted. All amendments will be **effective January 1, 2006**.

**A. Subsection (a) of Local Rule 5.1 - General Format of Documents Presented for Filing - is
amended** as follows:

Local Rule 5.1 - General Format of Documents Presented for Filing

(a) Electronic Filings.

(1) **Format of Documents Submitted Electronically.** Documents submitted via
the Court's **Electronic Case Filing System** ~~electronic filing system~~ under Rule 5.4
must be in PDF (Portable Document Format). Whenever possible, documents
shall be converted to PDF directly from a word processing program (*e.g.*,

Microsoft Word® or Corel WordPerfect®), rather than created from the scanned image of a paper document. Documents that exist only in paper format may be scanned into PDF for electronic filing. Proposed Orders must not be scanned into PDF, and must always be converted to PDF directly from a word-processing application. **Each PDF file may not exceed an electronic file size of 2 megabytes (MB). To electronically file a document or attachment that exceeds 2MB, the document must first be divided into two or more smaller files (see CM/ECF Policies and Procedures Manual for more information).**

(2) ***Ex parte Filings.*** *Ex parte* documents shall be filed electronically in accordance with the guidelines set forth in Section 19 of the CM/ECF Policies and Procedures Manual. The Court's Electronic Case Filing System will not transmit a Notice of Electronic Filing to attorneys of record when an *ex parte* document is filed.

(3) **Signature.** Every electronically filed document shall clearly identify the name, address, and telephone number, and Internet e-mail address of the filing attorney. Any electronically filed document not signed by the filing attorney appearing of record (as required by Local Rule 5.11) and submitted electronically using the filing attorney's ECF Login and Password shall, upon discovery of such omission, be stricken from the record unless such omission is promptly corrected upon notice to said attorney.

~~(3)~~ (4) **Electronic Copies and Electronic File-Stamps.** When a document is filed electronically, the official record is the electronic recording of the document as stored by the Court. The Court's **Electronic Case Filing System** ~~system~~ will generate a Notice of Electronic Filing, which will be transmitted by the Court via e-mail to the filer and all attorneys of record in the matter who are Filing Users. The Notice of Electronic Filing will contain a hyperlink to the filed document which constitutes service of the electronically filed document, thereby replacing conventional paper service. The Notice of Electronic Filing also serves as the Court's date-stamp and proof of filing. When filing electronically, it is not necessary to provide the Court with envelopes and postage or additional copies of the document, as the document will be served on all registered counsel via email.

~~(4)~~ (5) **Form of Orders.** The filing of a motion or petition requiring the entry of a routine or uncontested order by the Judge or the Clerk shall be accompanied by a suitable tendered form of order together with a service list of all parties or their counsel whose names and email addresses (or postal address, if appropriate) shall be typed in the lower left-hand corner of the tendered form of order. The tendered order must be converted to a separate PDF file directly from a word-processing application (as opposed to scanning) and must be submitted electronically as an attachment to the motion or petition.

B. Local Rule 5.2 - Public Access to Certain Case Information - is amended as follows:

Local Rule 5.2 - Public Access to Certain Case Information

(a) Personal Identifiers. In compliance with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings and documents filed with the Court, including exhibits thereto, whether filed electronically or on paper, unless otherwise ordered by the Court:

- (1) Social Security numbers. If an individual's social security number must be included in a pleading or document, only the last three digits of that number ~~should~~ **shall** be used.
- (2) Names of minor children. If the involvement of a minor child must be mentioned **in any court filing**, only the initials of that child ~~should~~ **shall** be used. **If reference to a party or individual will have the effect of identifying a minor child, e.g., where a parent appears as the child's next friend, the parties may file a motion to proceed with the action using pseudonyms for those parties or individuals that will so identify the minor child. Any such action or motion to proceed with pseudonyms shall be filed under seal in accordance with Local Rule 5.3. The motion to allow the use of pseudonyms shall specifically state how the identification of other parties or individuals may identify the minor child. Any party objecting to the motion to allow the use of pseudonyms shall file a response under seal in accordance with Local Rule 5.3.**
- (3) Dates of birth. If an individual's date of birth must be included in a pleading or document, only the year ~~should~~ **shall** be used.
- (4) Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers ~~should~~ **shall** be used. **Financial account numbers, for purposes of this Rule, include account numbers associated with bank accounts, mutual fund accounts, mortgage accounts, credit cards, insurance policies, and other items, disclosure of which could jeopardize the financial integrity of the account holder.**

If counsel believes that inclusion of certain types of identifying information, beyond the scope of those items contained in (1) - (4) above, could compromise privacy rights (e.g. home address of party), counsel has the burden of proving the information should be sealed or redacted to protect the privacy of parties or others involved in the legal action.

(b) Redaction. In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

- (1) file an unredacted version of the document under seal, following the procedure set forth in Local Rule 5.3(c); or

(2) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

The unredacted version of the document or the reference list shall be retained by the court as part of the record. The court may, however, still require the party to file a redacted copy for the public file.

(c) Responsibility for Redaction. The responsibility for redacting these personal identifiers rests solely with counsel and the parties. **A removing party has the burden of redacting documents previously filed with the state court, prior to submitting the documents to the District Court.** The Clerk will not review each pleading for compliance with this rule.

~~The Court maintains an Internet website at www.insd.uscourts.gov.~~

Notes: **Counsel should pay particular attention to personal identifiers that may be included in exhibits.**
~~Rule amended and effective September 1, 2004.~~ Rule adopted July 1, 2002, and amended to comply with the E-Government Act on April 16, 2003, ~~and September 1, 2004,~~ **and January 1, 2006.**

C. Local Rule 5.3 - Filing of Documents Under Seal - is amended as follows:

Local Rule 5.3 - Filing of Documents Under Seal in Civil Cases

(a) General Rule. No document will be maintained under seal in the absence of an authorizing statute, Court rule, or Court order. **No sealed document shall be accessible electronically or otherwise absent court order.**

(b) Filing of Cases Under Seal. Any new case submitted for filing under seal must be accompanied by a motion to seal and proposed order. Any case presented in this manner will be assigned a new case number, District Judge and Magistrate Judge. The Clerk will maintain the case under seal until a ruling **on granting** the motion to seal is entered by the assigned District Judge. If the motion to seal is denied, the case will be immediately unsealed with or without prior notice to the filing party.

(c) Filing of Documents Under Seal. Materials presented as sealed documents shall be **filed electronically in accordance with the guidelines set forth in Section 18 of the CM/ECF Policies and Procedures Manual, unless exempted by local rule or court order.** ~~inside an envelope which allows them to remain flat. Affixed to the exterior of the~~

~~envelope shall be an 8 ½ x 11"~~ A document filed under seal must be accompanied by a cover sheet containing:

- i. the case caption;
- ii. the name of the document if it can be disclosed publicly, otherwise an appropriate title by which the document may be identified on the public docket;
- iii. the name, address and telephone number of the person filing the document;
- and
- iv. in the event the motion requesting the document be filed under seal does not accompany the document, the cover sheet must set forth the citation of the statute or rule or the date of the Court order authorizing filing under seal.

(d) Service of Documents Filed Under Seal. Documents filed electronically under seal shall not be served upon counsel through the Court's Electronic Case Filing System (see Local Rule 5.8). Any sealed document that has been filed electronically, as required under section (c) of this rule, must be served pursuant to Fed. R. Civ. P. 5.

~~(d) Prohibition of Electronic Filing of Sealed Documents. Sealed documents will not be filed electronically, but rather manually on paper. The party filing a sealed document shall file electronically a Notice of Manual Filing (see Form in Electronic Case Filing Administrative Policies and Procedures Manual for the Southern District of Indiana). The courtroom deputy to the District or Magistrate Judge should be contacted for instructions when filing certain *ex parte* documents which could not be disclosed by the electronic Notice of Manual Filing.~~

~~(e) Ex parte Filings. Ex parte documents shall be filed electronically in accordance with the guidelines set forth in Section 18 of the ECF Administrative Policies and Procedures Manual. Upon the electronic filing of any document as an ex parte filing, the Court's system will not transmit electronic notice to attorneys of record as ex parte documents shall not be disclosed by the Notice of Electronic Filing. Prior to submitting any document as an ex parte filing, attorneys shall contact the courtroom deputy to the District or Magistrate Judge for further instructions.~~

D. Local Rule 5.6 - Scope of Electronic Filing - is amended as follows:

Local Rule 5.6 - Scope of Electronic Filing

All civil cases filed in this Court ~~on or after July 1, 2002~~ other than those cases specifically exempted by a judicial officer, are assigned to the Court's Electronic Case Filing System and shall be maintained in the system in accordance with these local rules. All documents required to be filed with the Court in connection with a case assigned to the Electronic Case Filing System must be electronically filed, except as expressly provided in these rules or as authorized by the Court. Pro se litigants may not file documents electronically.

The initial pleading and accompanying documents, including the complaint and the issuance and service of the summons, shall be filed and served in the traditional manner on paper. All subsequent documents must be filed electronically except as provided in these rules or as ordered by the Court.

All documents filed electronically must comply with the format and procedures set forth in the ~~Electronic Case Filing Administrative~~ CM/ECF Policies and Procedures Manual for the Southern District of Indiana.

E. The first paragraph of subsection (b) of Local Rule 5.7 - Eligibility, Registration, and Passwords for Electronic Filing is amended as follows:

(b) **Registration.** Attorneys of record for pending cases assigned to the Electronic Case Filing System must register with the Clerk to obtain an ECF login and password for use when filing documents electronically. Attorneys who wish to be exempted from participation in the program may file a Petition for ECF Exemption and a CM/ECF Technical Requirements Questionnaire. The petition and questionnaire must be filed for each pending case on the ~~Electronic Case Filing System~~ system. The petition will be reviewed by the Court in each case and granted only upon showing of good cause. The Court's ECF Registration Form and CM/ECF Technical Requirements Questionnaire are available on the Court's Internet website at www.insd.uscourts.gov.

F. Local Rule 5.8 - Consequences of Electronic Filing - is amended as follows:

Electronic transmission of a document to the Electronic Case Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and the local rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under Fed. R. Civ. P. 58 and 79.

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document as filed.

Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time of the division to which the case has been assigned in order to be considered timely filed that day.

When a document is filed electronically, the Court's ~~Electronic Case Filing System~~ system will generate a Notice of Electronic Filing, which will be transmitted by the Court via e-mail to the filer and all attorneys of record in the matter who are Filing Users. The Notice of Electronic Filing will contain a hyperlink to the filed document. The party filing the document

should retain a paper or electronic copy of the Notice of Electronic Filing, which serves as the Court's date-stamp and proof of filing.

Except for documents filed under seal, transmission of the Notice of Electronic Filing to an attorney's registered e-mail address constitutes service of the hyperlinked document(s) upon the attorney. Only the Notice of Electronic Filing, generated and transmitted by the Court's **Electronic Case Filing System** system, is sufficient to constitute electronic service of an electronically filed document. **A Notice of Electronic Filing transmitted by the Court's Electronic Case Filing System upon the filing of a document under seal will not provide recipients with access to the sealed document. Documents filed electronically under seal in accordance with Local Rule 5.3 must be served upon counsel pursuant to Fed.R.Civ.P. 5.**

Those parties or attorneys within the case who are exempt from the electronic filing requirement must be provided notice of the filing in paper form in accordance with the Federal Rules of Civil Procedure.

G. The second paragraph of Local Rule 5.9 - Entry of Court Orders in Cases Filed Electronically - is amended as follows:

A Filing User submitting a document electronically that requires a Judge's signature must do so in accordance with the policy set forth in the ~~Electronic Case Filing Administrative~~ **CM/ECF** Policies and Procedures Manual for the Southern District of Indiana.

H. Local Rule 5.10 – Attachments and Exhibits in Cases Filed Electronically - is amended as follows:

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, except as specifically permitted in these Rules or as granted by the Court. Each supporting exhibit or attachment must be created as a separate PDF document and submitted in one filing as an attachment to the main document. A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. **A responding party** may timely file additional excerpts or the complete document ~~that~~ **they which it believes** are directly germane.

Exceptions to the electronic filing requirement include the following documents:

- a. transcripts in cases filed by claimants under the Social Security Act, and related statutes;
- b. ~~PDF documents exceeding 2MB (see Electronic Case Filing Policies and Procedures Manual for more information);~~

- c. exhibits in a format that does not readily permit electronic filing, such as large maps, charts, video tapes, and similar materials;
- d. ~~c.~~ paper documents that are illegible when scanned into PDF format,
- e. ~~documents filed under seal (see Local Rule 5.3).~~

Any such component shall not be filed electronically, but instead shall be manually filed, on paper, with the Clerk of Court and served upon the parties in accordance with the applicable Federal Rules of Civil Procedure and the Local Rules for filing and service of non-electronic documents. Parties making a manual filing of a component shall file electronically, in place of the manually filed component, a Notice of Manual Filing setting forth the reason(s) why the component cannot be filed electronically (see form in ~~Electronic Case Filing~~ **CM/ECF** Policies and Procedures Manual for the Southern District of Indiana). The manually filed component must be presented to the Clerk within 24 hours after the electronic submission of the Notice of Manual Filing. A paper copy of the electronically filed Notice of Manual Filing must accompany the component at the time of manual filing.

I. Local Rule 5.12 - Notice of Court Orders and Judgments in Cases Filed Electronically - is amended as follows:

Immediately upon the entry of an order or judgment in an action assigned to the Electronic **Case** Filing System, the Clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. If a party is represented by multiple attorneys from the same law firm, and one or more is a Filing User, notice of entry of an order or judgment in a case assigned to the Electronic **Case** Filing System will be transmitted only to the Filing User(s). Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Civ. P. 77(d). If a party is not represented by at least one attorney who is a Filing User, the Clerk will give notice in paper form in accordance with the Federal Rules of Civil Procedure.

J. Local Rule 5.13 - Public Access to Cases Filed Electronically - is amended as follows:

A person may review at the Clerk's office filings that have not been sealed by the Court. A person also may access **case documents electronically via** ~~the Electronic Filing System at the Court's Internet site:~~ **<http://www.insd.uscourts.gov>** ~~www.insd.uscourts.gov~~ by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents. Only a Filing User under Rule 5.4 of these rules may file documents.

K. Local Criminal Rule 57.1 - Public Access to Criminal Case Information - is adopted:

Local Criminal Rule 57.1 – Public Access to Criminal Case Information

(a) Personal Identifiers and Information in Criminal Cases. In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to documents in the criminal case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court:

- (1) Social Security numbers. If an individual's social security number must be included in a pleading or document, only the last three digits of that number shall be used.
- (2) Names of minor children. If the involvement of a minor child must be mentioned in any court filing, only the initials of that child shall be used. If reference to a party or individual will have the effect of identifying a minor child, *e.g.*, where a parent appears as the child's next friend, the parties may file a motion to proceed with the action using pseudonyms for those parties or individuals that will so identify the minor child. Any such action or motion to proceed with pseudonyms shall be filed under seal in accordance with Local Rule 5.3. The motion to allow the use of pseudonyms shall specifically state how the identification of other parties or individuals may identify the minor child. Any party objecting to the motion to allow the use of pseudonyms shall file a response under seal in accordance with Local Rule 5.3.
- (3) Dates of birth. If an individual's date of birth must be included in a pleading or document, only the year shall be used.
- (4) Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers shall be used. Financial account numbers, for purposes of this Rule, include account numbers associated with bank accounts, mutual fund accounts, mortgage accounts, credit cards, insurance policies, and other items, disclosure of which could jeopardize the financial integrity of the account holder.
- (5) Home addresses. If a home address must be included, only the city and state shall be listed.

If counsel believes that inclusion of certain types of identifying information, beyond the scope of those items contained in (1) - (5) above, could compromise privacy rights (*e.g.* home address of party), counsel has the burden of proving the information should be sealed or redacted to protect the privacy of parties or others involved in the legal action.

(b) Redaction in Criminal Cases. In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

- (1) file an unredacted version of the document under seal, or
- (2) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

The unredacted version of the document or the reference list shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file.

(c) Responsibility for Redaction in Criminal Cases. The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each pleading for compliance with this rule.

Notes: Counsel should pay particular attention to personal identifiers that may be included in exhibits. Rule adopted January 1, 2006.